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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 (OAKLAND DIVISION)
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17 GEORGE G. BENETATOS and
18 CHOULOS, CHOULOS & WYLE, LLC,
19 Plaintiff,
20 vs.
21 HELLENIC REPUBLIC,
22 Defendant.

Case No. C 06-06819 SBA

ORDER RE TAXING OF COSTS

Date: February 10, 2009
Time: 1:00 p.m.
Location: Courtroom 3
Judge: Hon. Sandra Brown Armstrong

I. BACKGROUND

After judgment was entered in this case, defendant Hellenic Republic timely filed its bill of costs as the prevailing party. Plaintiff Benetatos did not file any objection, but the clerk of the court subsequently requested backup documentation from the Hellenic Republic. Not having received that information, the clerk subsequently taxed all of the requested costs for lack of documentation.

In this motion, counsel for Hellenic Republic submits that documentation, explains the circumstances surrounding his failure to submit them earlier, and asks the Court to review and revise the order taxing costs so that Hellenic Republic can recover the full amount of its costs as stated in the bill of costs.

II. LEGAL STANDARD

Local Rule 54 governs recovery of costs by prevailing parties in this Court. It requires timely filing of a bill of costs, and further requires submission of supporting documentation. Under Local Rule 54-1(a) any party disagreeing with the bill of costs must file an objection within 10 days of its filing. Documentation supporting the bill of costs was not submitted when it was filed; defendant asserted no objection to the costs sought by the Hellenic Republic.

III. ANALYSIS

As set forth in the Declaration of Daniel W. Hager, since there was no deadline stated in the letter from the clerk requesting backup documentation, counsel for the Hellenic Republic did not calendar a response date. He did, however, immediately gather the requested documentation to send to the clerk. While counsel believed he had asked his assistant to have that documentation filed, after receiving notice that he had not from the Clerk on December 29, 2008 (during the week between Christmas and New Years), counsel realized he had not in fact asked his secretary to file the documentation. Counsel immediately called the clerk's office and spoke to Deputy Clerk Frances Stone, who said counsel would need to submit this motion to Judge Armstrong, who has the final word in the taxing of costs.

Defendant Hellenic Republic has now submitted, with this motion, all of the requested documentation to support its bill of costs.

The bill of costs was never objected to by any opposing party within the time specified in the Local Rules, or at any time. Thus, it is both unopposed and fully supported by the documentation provided by defendant. There will be no possible prejudice to plaintiff Benetatos if costs are awarded in the full amount specified in the bill of costs, since he did not object to such an award in any event. Counsel for the Hellenic Republic has apologized for the delay in providing the requested documentation in support of the bill of costs in the above matter.

IV. CONCLUSION

Plaintiff Benetatos having waived any objection to the bill of costs, and Hellenic Republic having adequately explained its failure to provide the requested documentation earlier, the Court finds there is good cause for accepting the late-submitted documentation and for

1 changing the order taxing costs, and that doing so will achieve the most equitable results under
2 the circumstances.

3 After considering the moving and any opposition papers, the arguments of counsel, and
4 all other matters presented to the Court,

5 **IT IS HEREBY ORDERED THAT** defendant Hellenic Republic's motion for the Court
6 to review and revise the order taxing costs so that it recovers the full amount of its costs as stated
7 in the bill of costs is GRANTED and, accordingly, costs in the amount of \$3,237.00 are therefore
8 awarded to the Hellenic Republic as the prevailing party in this action against Plaintiff
9 Benetatos.

10 **IT IS SO ORDERED.**

11
12
13 Dated: _2/4/09


HON. SAUNDRA BROWN ARMSTRONG

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 GEORGE G. BENETATOS et al,

5 Plaintiff,

6 v.

7 HELLENIC REPUBLIC et al,

8 Defendant.
9 _____/

10 Case Number: CV06-06819 SBA

11 **CERTIFICATE OF SERVICE**

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
13 District Court, Northern District of California.

14 That on February 5, 2009, I SERVED a true and correct copy(ies) of the attached, by placing
15 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
16 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
17 delivery receptacle located in the Clerk's office.

18 George G. Benetatos
19 Law Office of George G. Benetatos
20 244 California Street Suite 300
San Francisco, CA 94111

21 Dated: February 5, 2009

22 Richard W. Wieking, Clerk

23 By: LISA R CLARK, Deputy Clerk
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